

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5150

Chapter 26, Laws of 2005

59th Legislature
2005 Regular Session

BOARD OF PILOTAGE COMMISSIONERS--LICENSES--LIABILITY

EFFECTIVE DATE: 4/12/05

Passed by the Senate March 9, 2005
YEAS 47 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 5, 2005
YEAS 94 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved April 12, 2005.

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5150** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 12, 2005 - 12:25 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5150

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By Senate Committee on Transportation (originally sponsored by Senators Haugen, Swecker and Jacobsen; by request of Board of Pilotage Commissioners)

READ FIRST TIME 02/25/05.

1 AN ACT Relating to marine pilot licensing qualifications and
2 procedures; amending RCW 88.16.035, 88.16.090, and 88.16.118;
3 prescribing penalties; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 88.16.035 and 1987 c 264 s 1 are each amended to read
6 as follows:

7 The board of pilotage commissioners shall:

8 (1) Adopt rules, pursuant to chapter 34.05 RCW (~~as now existing or~~
9 ~~hereafter amended~~), necessary for the enforcement and administration
10 of this chapter;

11 (2) (~~License~~) (a) Issue training licenses and pilot licenses to
12 pilot applicants meeting the qualifications ((and passing the
13 examination as)) provided for in RCW 88.16.090 ((as now or hereafter
14 amended)) and such additional qualifications as may be determined by
15 the board;

16 (b) Establish a comprehensive training program to assist in the
17 training and evaluation of pilot applicants before final licensing; and
18 ((to))

1 (c) Establish additional training requirements, including a program
2 of continuing education developed after consultation with pilot
3 organizations, including those located within the state of Washington,
4 as required to maintain a competent pilotage service;

5 (3) Maintain a register of pilots, records of pilot accidents and
6 other history pertinent to pilotage, along with a roster of vessels,
7 agents, owners, operators, and masters necessary for the maintenance of
8 a roster of persons interested in and concerned with pilotage and
9 maritime safety;

10 (4) Determine from time to time the number of pilots necessary to
11 be licensed in each district of the state to optimize the operation of
12 a safe, fully regulated, efficient, and competent pilotage service in
13 each district;

14 (5) Annually fix the pilotage tariffs for pilotage services
15 performed aboard vessels as required by this chapter: PROVIDED, That
16 the board may fix extra compensation for extra services to vessels in
17 distress, for awaiting vessels, or for being carried to sea on vessels
18 against the will of the pilot, and for such other services as may be
19 determined by the board;

20 (~~(5)~~) (6) File annually with the governor and the chairs of the
21 transportation committees of the senate and house of representatives a
22 report which includes, but is not limited to, the following: The
23 number, names, addresses, ages, pilot license number, and years of
24 service as a Washington licensed pilot of any person licensed by the
25 board as a Washington state pilot; the names, employment, and other
26 information of the members of the board; the total number of pilotage
27 assignments by pilotage district, including information concerning the
28 various types and sizes of vessels and the total annual tonnage; the
29 annual earnings of individual pilots before and after deduction for
30 expenses of pilot organizations, including extra compensation as a
31 separate category; the annual expenses of private pilot associations,
32 including personnel employed and capital expenditures; the status of
33 pilotage tariffs, extra compensation, and travel; the retirement
34 contributions paid to pilots and the disposition thereof; the number of
35 groundings, mishaps, or other incidents which are reported to or
36 investigated by the board, and which are determined to be accidents, as
37 defined by the board, including the vessel name, location of incident,
38 pilot's name, and disposition of the case together with information

1 received before the board acted from all persons concerned, including
2 the United States coast guard; the names, qualifications, time
3 scheduled for examinations, and the district of persons desiring to
4 apply for Washington state pilotage licenses; summaries of dispatch
5 records, quarterly reports from pilots, and the bylaws and operating
6 rules of pilotage organizations; the names, sizes in deadweight tons,
7 surcharges, if any, port of call, name of the pilot, and names and
8 horsepower of tug boats for any and all oil tankers subject to the
9 provisions of RCW 88.16.190 together with the names of any and all
10 vessels for which the United States coast guard requires special
11 handling pursuant to their authority under the Ports and Waterways
12 Safety Act of 1972; the expenses of the board; and any and all other
13 information which the board deems appropriate to include;

14 ~~((+6))~~ (7) Publish a manual which includes the pilotage act and
15 other statutes of Washington state and the federal government which
16 affect pilotage, including the rules of the board, together with such
17 additional information as may be informative for pilots, agents,
18 owners, operators, and masters. Such manual shall be distributed
19 without cost to all pilots and governmental agencies upon request. All
20 other copies shall be sold for a five dollar fee with proceeds to be
21 credited to the pilotage account;

22 ~~((+7))~~ (8) Appoint advisory committees and employ marine experts
23 as necessary to carry out its duties under this chapter;

24 ~~((+8))~~ (9) Provide for the maintenance of efficient and competent
25 pilotage service on all waters covered by this chapter; and do such
26 other things as are reasonable, necessary, and expedient to insure
27 proper and safe pilotage upon the waters covered by this chapter and
28 facilitate the efficient administration of this chapter.

29 **Sec. 2.** RCW 88.16.090 and 1999 sp.s. c 1 s 607 are each amended to
30 read as follows:

31 (1) A person may pilot any vessel subject to ~~((the provisions of))~~
32 this chapter on waters covered by this chapter only if ~~((appointed~~
33 ~~and))~~ licensed to pilot such vessels on ~~((said))~~ such waters under
34 ~~((and pursuant to the provisions of))~~ this chapter.

35 (2)(a) A person is eligible to be ~~((appointed))~~ licensed as a pilot
36 if the person:

37 (i) Is a citizen of the United States~~((7))~~;

1 (ii) Is over the age of twenty-five years and under the age of
2 seventy years~~((τ))~~;

3 (iii) Is a resident of the state of Washington at the time of
4 ~~((appointment and only if the pilot applicant))~~ licensure as a pilot;

5 (iv)(A) Holds at the time of application, as a minimum, a United
6 States government license as ((a)) master of ((ocean or near coastal))
7 steam or motor vessels of not more than one thousand six hundred gross
8 register tons ((or as a master of)) (three thousand international
9 tonnage convention tons) upon oceans, near coastal waters, or inland
10 ~~((steam or motor vessels of not more than one thousand six hundred~~
11 ~~gross tons,))~~ waters; or the then most equivalent federal license as
12 determined by the board; any such license to have been held by the
13 applicant for a period of at least two years ((prior to taking the
14 ~~Washington state pilotage examination and))~~ before application;

15 (B) Holds at the time of licensure as a pilot, after successful
16 completion of the board-required training program, a first class United
17 States endorsement without restrictions on ((that)) the United States
18 government license ((to pilot in)) for the pilotage district((s for))
19 in which the pilot applicant desires to be licensed((, and if the pilot
20 ~~applicant meets))~~; however, all applicants for a pilot examination
21 scheduled to be given before July 1, 2008, must have the United States
22 pilotage endorsement at the time of application; and

23 (C) The board may establish such other federal license requirements
24 for applicants and pilots as it deems appropriate; and

25 (v) Successfully completes a board-specified training program.

26 (b) In addition to the requirements of (a) of this subsection, a
27 pilot applicant must meet such other qualifications as may be required
28 by the board.

29 (c) A person applying for a license under this section shall not
30 have been convicted of an offense involving drugs or the personal
31 consumption of alcohol in the twelve months prior to the date of
32 application. This restriction does not apply to license renewals under
33 this section.

34 ~~(3) ((Pilots shall be licensed hereunder for a term of five years~~
35 ~~from and after the date of the issuance of their respective state~~
36 ~~licenses. Such licenses shall thereafter be renewed as of course,~~
37 ~~unless the board shall withhold same for good cause. Each pilot shall~~
38 ~~pay to the state treasurer an annual license fee as follows: For the~~

1 ~~period beginning July 1, 1995, through June 30, 2001, the fee shall be~~
2 ~~two thousand five hundred dollars; and for the period beginning July 1,~~
3 ~~2001, the fee shall be three thousand dollars. The fees shall be~~
4 ~~deposited in the state treasury to the credit of the pilotage account.~~
5 ~~The board may assess partially active or inactive pilots a reduced~~
6 ~~fee)) The board may establish such other training license and pilot~~
7 ~~license requirements as it deems appropriate.~~

8 (4) ~~Pilot applicants shall be ((required to pass a written and oral~~
9 ~~examination administered and graded by the board which shall test such~~
10 ~~applicants on this chapter, the rules of the board, local harbor~~
11 ~~ordinances, and such other matters as may be required to compliment~~
12 ~~[complement] the United States examinations and qualifications. The~~
13 ~~board shall hold examinations at such times as will, in the judgment of~~
14 ~~the board, ensure the maintenance of an efficient and competent~~
15 ~~pilotage service. An examination shall be scheduled for the Puget~~
16 ~~Sound pilotage district if there are three or fewer successful~~
17 ~~candidates from the previous examination who are waiting to become~~
18 ~~pilots in that district.)) evaluated and ranked in a manner specified~~
19 ~~by the board based on their experience, other qualifications as may be~~
20 ~~set by the board, performance on a written examination or examinations~~
21 ~~established by the board, and performance in such other evaluation~~
22 ~~exercises as may be required by the board, for entry into a board-~~
23 ~~specified training program.~~

24 When the board determines that the demand for pilots requires entry
25 of an applicant into the training program it shall issue a training
26 license to that applicant, but under no circumstances may an applicant
27 be issued a training license more than four years after taking the
28 written entry examination. The training license authorizes the trainee
29 to do such actions as are specified in the training program.

30 After the completion of the training program the board shall
31 evaluate the trainee's performance and knowledge. The board, as it
32 deems appropriate, may then issue a pilot license, delay the issuance
33 of the pilot license, deny the issuance of the pilot license, or
34 require further training and evaluation.

35 (5) ~~((The board shall develop an examination and grading sheet for~~
36 ~~each pilotage district, for the testing and grading of pilot~~
37 ~~applicants. The examinations shall be administered to pilot applicants~~
38 ~~and shall be updated as required to reflect changes in law, rules,~~

1 ~~policies, or procedures.~~) The board may appoint a special independent
2 ((~~examination~~)) committee or may contract with a firm knowledgeable and
3 experienced in the development of professional tests and evaluations
4 for development and grading of ((~~said~~)) the examinations and other
5 evaluation methods. Active licensed state pilots may be consulted for
6 the general development of any examinations and evaluation exercises
7 but shall have no knowledge of the specific questions. The pilot
8 members of the board may participate in the grading of examinations.
9 If the board does appoint a special examination or evaluation
10 development committee it is authorized to pay the members of ((~~said~~))
11 the committee the same compensation and travel expenses as received by
12 members of the board. (~~When grading examinations the board shall~~
13 ~~carefully follow the grading sheet prepared for that examination. The~~
14 ~~board shall develop a "sample examination" which would tend to indicate~~
15 ~~to an applicant the general types of questions on pilot examinations,~~
16 ~~but such sample questions shall not appear on any actual~~
17 ~~examinations.~~) Any person who willfully gives advance knowledge of
18 information contained on a pilot examination or other evaluation
19 exercise is guilty of a gross misdemeanor.

20 (6) Pilots are licensed under this section for a term of five years
21 from and after the date of the issuance of their respective state
22 licenses. Licenses must thereafter be renewed as a matter of course,
23 unless the board withholds the license for good cause. Each pilot
24 shall pay to the state treasurer an annual license fee of three
25 thousand dollars. The fees must be deposited in the state treasury to
26 the credit of the pilotage account. The board may assess partially
27 active or inactive pilots a reduced fee.

28 (7) All pilots and applicants are subject to an annual physical
29 examination by a physician chosen by the board. The physician shall
30 examine the applicant's heart, blood pressure, circulatory system,
31 lungs and respiratory system, eyesight, hearing, and such other items
32 as may be prescribed by the board. After consultation with a physician
33 and the United States coast guard, the board shall establish minimum
34 health standards to ensure that pilots licensed by the state are able
35 to perform their duties. Within ninety days of the date of each annual
36 physical examination, and after review of the physician's report, the
37 board shall make a determination of whether the pilot or ((~~candidate~~))
38 applicant is fully able to carry out the duties of a pilot under this

1 chapter. The board may in its discretion check with the appropriate
2 authority for any convictions of offenses involving drugs or the
3 personal consumption of alcohol in the prior twelve months.

4 ~~((7) The board shall prescribe, pursuant to chapter 34.05 RCW, a
5 number of familiarization trips, between a minimum number of twenty-
6 five and a maximum of one hundred, which pilot applicants must make in
7 the pilotage district for which they desire to be licensed.
8 Familiarization trips any particular applicant must make are to be
9 based upon the applicant's vessel handling experience.))~~

10 (8) The board may require vessel simulator training for a pilot
11 applicant and shall require vessel simulator training for a licensed
12 pilot subject to RCW 88.16.105. The board shall also require vessel
13 simulator training in the first year of active duty for a new pilot and
14 at least once every five years for all active pilots.

15 (9) The board shall prescribe, pursuant to chapter 34.05 RCW, such
16 reporting requirements and review procedures as may be necessary to
17 assure the accuracy and validity of license and service claims(~~(, and~~
18 ~~records of familiarization trips of pilot candidates)~~). Willful
19 misrepresentation of such required information by a pilot (~~(candidate)~~)
20 applicant shall result in disqualification of the (~~(candidate)~~) pilot
21 applicant.

22 ~~((10) The board shall adopt rules to establish time periods and
23 procedures for additional training trips and retesting as necessary for
24 pilots who at the time of their licensing are unable to become active
25 pilots.))~~

26 **Sec. 3.** RCW 88.16.118 and 1984 c 69 s 1 are each amended to read
27 as follows:

28 (1) A ship's pilot licensed to act as such by the state of
29 Washington shall not be liable for damages in excess of the amount of
30 five thousand dollars for damages or loss occasioned by the pilot's
31 errors, omissions, fault, or neglect in the performance of pilotage or
32 pilot training services, except as may arise by reason of the willful
33 misconduct or gross negligence of ((the)) that pilot. A ship's pilot
34 trainee licensed to act as such by the state of Washington is not
35 liable for damages in excess of the amount of five thousand dollars for
36 damages or loss occasioned by the pilot trainee's errors, omissions,

1 fault, or neglect in the performance of pilotage or pilot training
2 services, except as may arise by reason of the willful misconduct or
3 gross negligence of that pilot trainee.

4 (2) When a pilot or pilot trainee boards a vessel, that pilot or
5 pilot trainee becomes a servant of the vessel and its owner and
6 operator. Nothing in this section exempts the vessel, its owner or
7 operator from liability for damage or loss occasioned by that ship to
8 a person or property on the ground that ((+1)) (a) the ship was
9 piloted by a Washington state licensed pilot or pilot trainee, or
10 ((+2)) (b) the damage or loss was occasioned by the error, omission,
11 fault, or neglect of a Washington state licensed pilot or pilot
12 trainee.

13 NEW SECTION. Sec. 4. This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of the
15 state government and its existing public institutions, and takes effect
16 immediately.

Passed by the Senate March 9, 2005.

Passed by the House April 5, 2005.

Approved by the Governor April 12, 2005.

Filed in Office of Secretary of State April 12, 2005.